

DATE: 4-2-12

BDCP ISSUE PAPER

Governance

TOPIC: Role of Fish Agencies in the BDCP Governance structure, particularly as it relates to decision making regarding:

- **Real time operations and annual operations plans;**
- **Adaptive Management process and adaptive management changes to objectives and conservation measures; and**
- **Science process, determinations regarding what monitoring and targeted research is conducted and what methodologies are used.**

ISSUE DESCRIPTION: The current governance structure has the Fish Agencies only in an advisory or consultative role, rather than in a collaborative working relationship, directly involved in the decision making necessary for successful implementation of the Plan. Given the uncertainty with many aspects of the Conservation Measures (CM) which make up the BDCP Conservation Strategy, including real time operations in CM1, an approval role by the Fish Agencies in the Real time operations, Science, and Adaptive Management process is critical to the development of a permitable Plan.

The Fish Agencies have proposed changes to the current governance structure which would address these concerns and give the Fish Agencies, as the Permit Oversight Group (POG), final approval authority over the following activities:

- **Water Operations: Real time operations**
 - final decision on discretionary actions, including OMR flow, Shasta operations, North Delta Diversion bypass flows.
- **Adaptive management changes to conservation measures.**
- **Science process: Selection of the Science Manager; Selection of independent review panels in cooperation with DSP; development of panel charge; changes to monitoring; and targeted research to be implemented.**
- **Annual Work Plan and Budget**

Decision-making Agencies: FWS, BOR, DFG, DWR, and NMFS

Advisory entities: PWAs and NGOs

These issues affect Chapters 3 (water operations, CM1 and Adaptive Management and Monitoring Section 3.7), Chapter 6, Implementation, and Chapter 7, Governance.

POINTS OF AGREEMENT:

- **A collaborative, working relationship between the Fish Agencies, the permittee(s), BOR, and the Implementation Board (IB), is critical to the success of the BDCP.**
- **Adaptive Management process; makeup and charge of the Adaptive Management Team, convened by the BDCP Science Manager.**

ISSUES FOR RESOLUTION:

- **Characterization of the decision making relationship of the Fish Agencies, DWR and BOR as a Five Agency Relationship (all substantive decisions regarding water operations, Adaptive Management, and Science to be made by the Five Agencies) vs. the Permit Oversight Group and the IB, including the Public Water Agencies (PWAs), with decision making residing with the IB.**
 - **Requiring the Adaptive Management Team to include representatives from each of the five agencies vs. the AM Team being approved by the Program Manager without conditions placed on the membership.**
 - **Allowing any of the Five Agencies the right to object to adaptive management proposals made by the Program Manager vs. the IB.**
- **Use of the Delta Science program as the sole mechanism for providing Independent Science review and advice to BDCP vs. the current language and view of the PWAs that BDCP IB should be able to convene its own panels.**
 - **The Program Manager to consult with the Fish Agencies regarding the selection of external independent scientists on specific matters vs. consulting with the IB.**
- **Use of existing monitoring and science program vs. creating a new BDCP science program which only coordinates with existing programs, (Interagency Ecological Program and Delta Science Program).**
- **The Program Manager, with concurrence from the Fish Agencies, to prepare a five-year implementation plan for the upcoming five years vs. the plan being prepared by the IB.**

- **Dispute Resolution pursuant to the delegated authority of the Five Agencies vs. at the Governor/Secretary level.**

NEXT STEPS:

- **Verify all points of agreement and the issues for resolution at April 10 IMT meeting, and elevate to State and Federal Agency Principals April 12 meeting for resolution or elevation to the Agency Workshop.**

WORKING DRAFT